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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,558	11/21/2003	James F. Pitzen	59097US002	3565

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EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/719,558	Applicant(s) PITZEN, JAMES F.	
	Examiner Daniel Zirker	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/13/04 & 4/18/05</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, in each of the independent claims "double-sided stretch releasing adhesive" should have --tape-- added after "adhesive", because the present language also reads upon any simple layer of stretch release adhesive, i.e. such a layer presumably has two sides.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Meeks. Note particularly Figs 1,3 and 4, Col 1, lines 14-24, lines 64-66, lines 30-34, Col 3, lines 3-14, particularly lever elements 28 and 30 and double sided adhesive tape 16.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meeks taken in view of Frye. The primary reference is again relied upon substantially as set forth above, while the newly relied upon secondary reference discloses (note particularly Figs 8 and 9, Col 1, lines 8-16, line 68- Col 2, line 15, Col 3, line 71- Col 4, line 15) an article holding device having one outer surface coated with a layer of removable pressure sensitive adhesive which can have a spring loaded clip 45 having a suitable rear plate portion 46 forming a clamp which is disposed or clamped over web 44 as shown in Figs 8 and 9 (Col 4, lines 10-13). Accordingly, one of ordinary skill, desirous of having an article holding device which is also suitably attachable to a desired surface by an adhesive would incorporate the spring loaded clip and clamp into the cable clamp of the primary reference and thereby form, or render obvious, the claimed genus of articles. With respect to such parameters as which element is pivotably connected with a particular portion is believed to be an obvious modification to one of ordinary skill, in the absence of unexpected results.

7. Claims 1-3 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corcoran et al taken in view of Bries et al for claims 1-3 and 9-13 and WO/11295 for claim 14. The primary reference discloses (note particularly Corcoran et al, Figs 5 and 6, Col 2, line 60 – Col 3, line 3, Col 5, line 54 – Col 6, line 46, claims 1,7,and 8) apparatus and an accompanying method for loosening safety closures from containers, which includes an arm being pivotably connected to a vertical post. In Figs 5 and 6 note the handle with arm 80 having handle portion 82, and leveling hinge 106 lies adjacent cap gripping means 100, with leveling hinge pin 108 connecting

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hinge 106 to the slotted section of arm 80. With respect to the secondary references, Bries et al discloses (note particularly the Abstract, Col 6, line 60 – Col 7, line 10, Fig 1, claim 1) a suitable stretch release adhesive tape finding utility in a wide variety of applications such as applicant contemplates (e.g. Col 6, line 60, Col 7, line 10), while WO/ '295 discloses (Figs 5-7, page 7, lines 15-20) a forearm openable closure for containers which can have base element 12 connected to the cap 15 by a suitable adhesive strip (page 7, lines 19-21). The references are believed to be clearly combinable, as the adhesive tape or strip is clearly needed to connect the closure article to a desired substrate, with the remaining claimed structure or accompanying method clearly disclosed by the relied upon reference combinations. Other parameters that are not either expressly or inherently disclosed are each believed to be an obvious modification to one of ordinary skill, in the absence of unexpected results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is 571-272-1486. The examiner can normally be reached on Monday - Thursday from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on 571 – 272 - 1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Zirker
Primary Examiner
Art Unit 1771

A handwritten signature in black ink that reads "Daniel Zirker". The signature is written in a cursive style with a large, stylized 'Z'.